

CITY OF FAIRFIELD

RESOLUTION NO. 2016 - 124

RESOLUTION OF THE CITY COUNCIL APPROVING FEDERAL TRANSIT
ADMINISTRATION SECTION 5307 FUNDING AGREEMENT BETWEEN THE SOLANO
TRANSPORTATION AUTHORITY AND CITY OF FAIRFIELD

WHEREAS, the City of Fairfield operates public transportation service as Fairfield and Suisun Transit on behalf of both communities; and

WHEREAS, the City of Fairfield entered into a Memorandum of Understanding with other Solano County cities to fund a new countywide intercity paratransit service; and

WHEREAS, the City of Fairfield received \$200,000 in Federal Transit Administration Section 5307 funds to pass through to the administrator of the intercity paratransit service; and

WHEREAS, the City of Fairfield has prepared an agreement to pass through these funds to Solano Transportation Authority who administers the intercity paratransit service.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FAIRFIELD HEREBY RESOLVES:

Section 1. The City adopt the FTA Section 5307 Funding Agreement between the Solano Transportation Authority and City of Fairfield and authorize its execution by the City Manager and City Attorney.

PASSED AND ADOPTED this 17th day of May 2016, by the following vote:

AYES: COUNCILMEMBERS: PRICE/TIMM/BERTANI/MOY/VACCARO

NOES: COUNCILMEMBERS: NONE

ABSENT: COUNCILMEMBERS: Bertani

ABSTAIN: COUNCILMEMBERS: NONE

Law, T. Price
MAYOR

ATTEST:
Karen L. Rees
CITY CLERK
pw

**FEDERAL TRANSIT ADMINISTRATION SECTION 5307
FUNDING AGREEMENT BETWEEN THE SOLANO
TRANSPORTATION AUTHORITY AND CITY OF
FAIRFIELD**

THIS FUNDING EXCHANGE AGREEMENT ("Agreement") is made on May 23, 2016 between the Solano Transportation Authority, a joint powers authority organized under Government Code section 6500 et seq. ("STA" or "Subrecipient"), and the City of Fairfield, a California municipal corporation ("Fairfield"), each individually referred to as a party ("Party") and collectively as the parties (the "Parties").

RECITALS

WHEREAS, Fairfield, on behalf of its transit operations, received a Federal Transit Administration ("FTA") Section 5307 Grant (Project No. CA-90-Z088-00) (the "FTA 5307 Grant") in the amount of \$200,000 to support the Solano County Intercity Taxi Program; and

WHEREAS, STA has agreed to assume responsibility for operating the Solano County Intercity Taxi Script Program; and

WHEREAS, Fairfield desires to claim the FTA 5307 Grant funding on behalf of STA and pass those funds on to STA.

AGREEMENT

NOW, THEREFORE, the parties agree as follows:

1. STA shall operate the Solano County Intercity Taxi Program ("Project") as more particularly described in the Scope of Work attached hereto as Exhibit A and incorporated herein by this reference.
2. Upon submission of a satisfactory invoice from STA meeting the FTA 5307 Grant requirements, Fairfield agrees to claim up to \$200,000 in FTA 5307 funds and upon receipt pass those funds through to STA on behalf of the Solano County Intercity Taxi Script Program. Requests for reimbursement will be accepted for the period July 1, 2014-June 30, 2015.
3. STA shall submit all documentation required to support Fairfield's claim and shall abide by all terms and conditions of the FTA 5307 Grant in receiving these funds.
4. This Agreement is subject to the Terms and Conditions set forth in Exhibit B, attached hereto and incorporated herein by this reference.
5. Notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

Solano Transportation Authority
One Harbor Center
Suite 130
Suisun City, CA 94585
Attn: Daryl Halls, Executive Director

City of Fairfield
1000 Webster Street
Fairfield, CA 94533
Attn: David White, City Manager

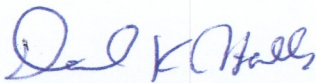
Any notice or demand which may or must be given or made by either Party, under the terms of this Agreement or any statute or regulation, shall be in writing; and shall be deemed received on: (a) the day of delivery if delivered by hand (including overnight courier service) during receiving Party's regular business hours or by facsimile before or during receiving Party's regular business hours; or (b) on the second business day following deposit in the United States mail, postage prepaid, to the addresses set forth above, or to such other addresses as the Parties may, from time to time, designate in writing pursuant to the provisions of this Article, provided the sender obtains and retains records of such postings.

6. This Agreement constitutes the entire Agreement between the parties relating to the Project and supersedes any previous agreement or understanding.

The parties have executed this Agreement on the day and year first written above.

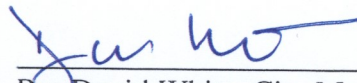
SOLANO TRANSPORTATION AUTHORITY

CITY OF FAIRFIELD



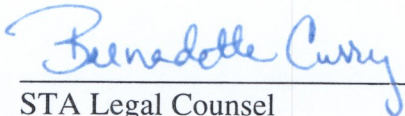
By: Daryl K. Halls, Executive Director

Approved as to Form

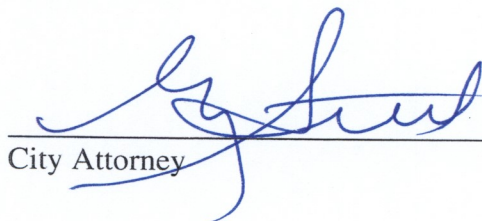


By: David White, City Manager *Cor*

Approved as to Form



STA Legal Counsel



City Attorney

EXHIBIT A

SCOPE OF WORK

The Intercity Taxi Scrip program provides curb-to-curb and door-to-door taxi service to allow for both ambulatory and non-ambulatory residents to access daily employment commutes, medical appointments, and other community destinations in Solano County ("SERVICE").

The Solano Transportation Authority (STA) will ensure participating cab providers:

Accept Intercity ADA Scrip coupons as cash for taxicab rides between the cities of Benicia, Dixon, Fairfield, Suisun City, Rio Vista, Vacaville, Vallejo, and incorporated Solano County. STA will undertake the responsibility of managing all intercity paratransit services within Solano County.

- Accept Scrip for payment only from persons meeting Program eligibility.
- Limit acceptance of Scrip to trips with an origin and destination within the boundaries of participating Agencies for intercity travel.
- Ask all passengers at the time the trip is scheduled if they will be paying with Scrip and inform them they will be required to show Program identification.
- Collect the Scrip from drivers and bundle in groups of fifty (50) for submission with an invoice.
- Submit a monthly invoice for reimbursement of Scrip accepted for payment along with a monthly report that contains the following Scrip trip information:
 - Revenue Hours - A revenue hour is defined by the time the vehicle is in revenue service
 - Revenue Miles - A revenue mile is determined by the mileage while the vehicle is in revenue service
 - Passenger Fare - Record passenger fare for each in appropriate column of log.
 - ADA Number - Record of passenger's ADA certification number to be inserted on log provided by the Agencies.
 - Mobility Device - Record the type of mobility device used by rider (if applicable).
- Monitor driver trips to ensure passenger miles do not exceed what is necessary to arrive at the passenger's destination.

- Provide documentation confirming all company employees have received ADA Sensitivity training and information regarding Program requirements per the ADA Disability Etiquette Training Requirements.

STA will ensure participating agencies:

- Meet all aspects of the federal program requirements.
- Provide monthly ridership reports which detail the riders, trip routes, and costs by jurisdiction.
- Develop public outreach efforts that meet federal funding requirements.
- Make annual claims for TDA Article 8 funds for the costs in providing Intercity Taxi Scrip program services as agreed upon by all jurisdictions participating in the program.
- Assist the City of Fairfield in making claims and invoicing for available federal reimbursement (\$200,000).
- Seek grants, to supplement available funding for the Service and shall apply any awarded monies to subsidize the costs of the Parties.
- Continue to provide ADA mandated paratransit service as necessary and separate from that which is provided under this SERVICE.
- Prepare and enter into a Memorandum of Understanding with all participating agencies (Cities of Dixon, Fairfield, Rio Vista, Vacaville, Solano County Transit and County of Solano) outlining Roles and Responsibilities of Parties by September 30, 2016.

Budget

Total Direct Labor:	\$60,000
Other Direct Costs:	<u>\$600,000</u>
Total Direct & Indirect Expense:	\$660,000

Less:

Fares	\$90,000
Project Overmatch:	\$300,000
Partnership Match:	<u>\$70,000</u>
Total Revenue Applied Against Eligible Expenses:	\$460,000

Net Project Cost Covered by FTA 5307 Grant: \$200,000

EXHIBIT B

TERMS AND CONDITIONS

1. Subrecipient.

For the purpose of this Agreement, STA is the subrecipient as referenced in the Moving Ahead for Progress in the 21st Century Act (MAP-21; Pub. L. 112-141 (2012)). As a grant subrecipient of FTA funds STA agrees to and shall comply with the Federal statutes, regulations, executive orders, directives and administrative requirements which relate to applications made to and grants received from FTA including but limited to the USDOT FTA Master Agreement (21), October 1, 2014 (incorporated herein by this reference) and FTA C 9030.1E, Urbanized Area Formula Program: Grant Application Instructions.

2. Approval.

- A. Except as provided herein this Agreement is of no force or effect until signed by both parties and approved by Fairfield.
- B. Fairfield reserves the right to sign and approve the Agreement provided however, the commencement of work should not be authorized until the expenditure of federal funds has been authorized by the FTA for a specific Federal fiscal year. STA may not commence performance until federal authorization has been obtained.
- C. This Agreement is valid and enforceable only if sufficient funds are made available to Fairfield by the United States Government for the purpose of this program. In addition, this Agreement is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress that may affect the provisions, terms or funding of this Agreement in any manner.
- D. It is mutually agreed that if the Congress does not appropriate sufficient funds for the program, this Agreement shall be amended to reflect any reduction in funds.
- E. State Law. This Agreement shall be interpreted according to the laws of the State of California, except as to those provisions where federal law shall apply; as to those provisions where federal law applies, the rules, regulations, statutes and executive orders of the federal government shall be applicable. In the event that any provision of this Agreement requires that STA observe or comply with or perform any activity in contradiction or violation of State law, STA will notify Fairfield at once, in writing, of such provision. The remaining Agreement provisions shall not be affected. The unenforceable provisions(s) shall be renegotiated by STA and Fairfield for mutually agreed appropriate changes and/or modifications; and STA shall proceed, as soon as is possible, with PROJECT.
- F. No issuance of a Standard Agreement or amendments will be provided until proof of the PROJECT has been programmed and is in an approved FSTIP.

3. Enforcement/Remedies for Non-Compliance.

If STA materially fails to comply with any term of this Agreement, or fails to refund any moneys due Fairfield, Fairfield may take one or more of the following actions:

- A. Disallow or temporarily withhold cash payments pending correction of the deficiency by STA.
- B. Wholly or partially suspend or terminate the current award for STA's PROJECT.
- C. Withhold future awards to STA for the program.
- D. Withhold or demand a transfer of an amount equal to the amount paid by or owed to Fairfield from remaining grant balance and/or future apportionments, or any other funds due Contractor from the Federal Trust Fund or any other sources of funds.
- E. Take other remedies that may be legally available.

4. Amendment.

No amendment or alteration of the terms of this Agreement shall be valid unless submitted in writing, signed by the parties and approved as required. No oral understanding or agreement not incorporated in this Agreement is binding on any of the parties.

5. Assignment.

This Agreement is not assignable by STA, either in whole or in part, without the consent of Fairfield in the form of a formal written amendment.

6. Independent Contractor.

STA, and the agents and employees of STA, in the performance of this Agreement, shall act as an independent contractor and not as officers or employees or agents of Fairfield.

7. Antitrust Claims.

STA by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, STA shall comply with the requirements of the Government Codes Sections set out below.

- A. The Government Code Chapter on Antitrust claims contains the following definitions:
 - 1. "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by Fairfield or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.

2. "Public purchasing body" means Fairfield or the subdivision or agency making a public purchase. Government Code Section 4550.
- B. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.
- C. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.
- D. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

8. Child Support Compliance Act.

"For any Agreement in excess of \$100,000, STA acknowledges in accordance with Public Contract Code 7110, that:

- A. STA recognizes the importance of child and family support obligations and shall fully comply with all applicable State and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
- B. STA, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

9. Unenforceable Provision.

In the event that any provision of this Agreement is unenforceable or held to be unenforceable by a court of competent jurisdiction, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

10. Priority Hiring Considerations.

If this Agreement includes services in excess of \$200,000, STA shall give priority consideration in filling vacancies in positions funded by the Agreement to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Public Contract Code §10353.

11. Annual Certification and Assurances.

As requested by Fairfield, STA must complete and submit to Fairfield the annual FTA Certifications and Assurances for Federal Transit Administration Assistance Programs, Certifications and Assurances Checklist and Signature Page to be provided by Fairfield.

12. Exclusionary or Discriminatory Specifications.

Apart from inconsistent requirements imposed by Federal statute or regulations, STA agrees that it will comply with the requirements of 49 U.S.C. § 5323(h)(2) by refraining from using any Federal assistance funds awarded by Fairfield on behalf of the FTA to support procurements using exclusionary or discriminatory specifications.

13. Buy America.

STA shall comply with the Buy America requirements of 49 U.S.C. 5323(U) and 49 CFR Part 661 for all procurements of steel, iron and manufactured products used in PROJECT. Buy America requirements apply to all purchases, including materials and supplies funded as operating costs, if the purchase exceeds the threshold for small purchases (currently \$100,000). Separate requirements for rolling stock are set out at 49 U.S.C. 5323(U)(2)(c) and 49 CFR 661.11. Rolling stock must be assembled in the United States and have a sixty (60) percent domestic content.

14. U.S. Flag Requirements.

- A. Shipments by Ocean Vessel. For third-party contracts that may involve equipment, materials, or commodities which may be transported by ocean vessels, STA and subcontractors must comply with 46 U.S.C. Section 55303 and 46 CFR Part 381, "Cargo Preference-U.S. Flag Vessels."
- B. Shipments by Air Carrier. For third-party contracts that may involve shipments of federally assisted property by air carrier, STA and subcontractors must comply with the "Fly America" Act and 49 U.S.C. Section 40118, "Use of United States Flag Air Carriers," and 41 CFR Sections 301-10.131 through 301-10.143.
- C. Project Travel. In accordance with 49 U.S.C. 40118 and 41 CFR Part 301-10, STA and all subcontractors are required to use U.S. Flag air carriers for U.S.

Government-financed international air travel and transportation, to the extent such service is available or applicable.

15. Accounting Records.

STA shall establish and maintain separate accounting records and reporting procedures specified for the fiscal activities of the PROJECT. STA's accounting system shall conform to generally accepted accounting principles (GAAP) and uniform standards that may be established by Fairfield. All records shall provide a breakdown of total costs charged to the PROJECT including properly executed payrolls, time records, invoices and vouchers.

16. Worker's Compensation.

STA hereby warrants that it carries Workers' Compensation Insurance on all of its employees who will be engaged in the performance of this Agreement. If staff provided by STA is defined as independent contractors, this clause does not apply.

17. Vehicle Operator Licensing.

STA is required to comply with all applicable requirements of the Federal Motor Carrier Safety Administration regulations and the California Vehicle Code including, but not limited to, the requirement that all vehicle operators have a valid State of California driver's license, including any special operator license that may be necessary for the type of vehicle operated.

18. Audit Requirements.

STA shall be responsible for meeting the audit requirements of OMB Circular A-133, or any revision or supplement thereto. The required audit reports shall be submitted to Fairfield. The cost of audits made in accordance with the provisions of OMB Circular A-133 is an allowable charge to this PROJECT, to the extent provided by OMB Circular A-133.

19. Record Keeping.

STA and all subcontractors shall maintain all books, documents, papers, accounting records, and other evidence pertaining to the performance of this Agreement. All parties shall make such materials available at their respective offices at all reasonable times during the performance period and for three (3) years from the date of final payment under this Agreement and all subrecipient contracts.

20. Examination of Records.

Fairfield and any duly authorized representative of the Federal government shall have access to any books, records, and documents of STA and its subcontractors that are pertinent to this Agreement for audits, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested. STA shall include a clause to this effect in every subcontract entered into relative to the PROJECT.

21. Examination of Accounting.

STA's accounting system and billing procedures are subject to audit by Fairfield prior to contract award, and accounting records pertaining to work performed and costs billed to Fairfield are subject to audit for a period of three (3) years after date of final payment under this Agreement. If STA fails to retain records such as employee time cards, payroll records, travel records, equipment time and cost records, billings from subcontractors, material and equipment supplier's records that are sufficient to permit audit verification of the validity of cost charged to Fairfield, STA will be liable for reimbursement to Fairfield of all unsubstantiated billings.

22. Reporting Forms.

STA shall furnish Fairfield with any additional reports or data that may be required by FTA or other federal agencies. Such reports and/or data will be submitted on forms provided by Fairfield.

23. Debarment and Suspension.

STA agrees as follows:

- A. STA agrees to comply with the requirements of Executive Order Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. Section 6101 note; and U.S. DOT regulations on Debarment and Suspension and 49 CFR Part 29.
- B. Unless otherwise permitted by FTA, STA agrees to refrain from awarding any third-party contract of any amount to or entering into any sub-agreement of any amount with a party included in the "U.S. General Services Administration's (U.S. GSA) List of Parties Excluded from Federal procurement or Non-procurement Program," implementing Executive Order Nos. 12549 and 12689, "Debarment and suspension" and 49 CFR Part 29. The list also include the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible for contract award under statutory or regulatory authority other than Executive Order Nos. 12549 and 12689.
- C. Before entering into any sub-agreements with any subrecipient, STA agrees to obtain a debarment and suspension certification from each prospective recipient containing information about the debarment and suspension status and other specific information of that subrecipient and its "principals," as defined at 49 CFR Part 29.
- D. Before entering into any third-party contract exceeding \$25,000, STA agrees to obtain a debarment and suspension certification from each third-party contractor containing information about the debarment and suspension status of that third-party contractor and its "principals," as defined at 49 CFR 29.105(p). STA also agrees to require each third-party contractor to refrain from awarding any third party sub-contract of any amount (at any tier) to a debarred or suspended sub-contractor, and to obtain a similar certification from any third-party subcontractor (at any tier) seeking a contract exceeding \$25,000.

24. Compliance with Federal Statutes.

During the performance of this Agreement, STA, its assignees and successors in interest, agree to comply with all Federal statutes and regulations applicable to grantee recipients under the Federal Transit Act, including, but not limited to the following:

- A. Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, STA agrees that it will not discriminate against any employee or applicant for employment because of race, color and national origin. In addition, STA agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
- B. Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:
 - (a) Race, Color, National Origin, - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, STA agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. STA agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, STA agrees to comply with any implementing requirements FTA may issue.
 - (b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, STA agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, STA agrees to comply with any implementing requirements FTA may issue.
 - (c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, STA agrees that it will

comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, STA agrees to comply with any implementing requirements FTA may issue.

(d) STA also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

C. In accordance with 49 CFR Part 26 and as described in FTA Circular 4702.1 B, and the Fairfield Title VI Program Plan, and upon request from Fairfield, STA shall comply with the following reporting requirements. STA is also responsible for ensuring compliance of each third-party contractor at any tier of the PROJECT.

1. Prepare and submit a Title VI Program.
2. Establish and maintain Title VI complaint procedures.
3. Record Title VI investigations, complaints, and lawsuits.
4. Provide meaningful access to Limited English Proficient Persons.
5. Notify beneficiaries of protection under Title VI.
6. Provide additional information upon request.
7. Provide an Annual Title VI Certification and Assurance.
8. Guidance on conducting an Analysis of Construction PROJECTS.
9. Guidance on promoting Inclusive Public Participation.
10. Report minority representation on transit related Planning and Advisory Bodies.
11. Service standards.
 - a. Vehicle load for each mode
 - b. Vehicle headway for each mode
 - c. On time performance for each mode
 - d. Service availability for each mode
12. Service policies
 - a. Transit Amenities for each mode

b. Vehicle Assignment for each mode

- D. Solicitations for Subcontracts Including Procurements of Materials and Equipment. In all solicitations, either by competitive bidding or negotiation by STA for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by STA of STA's obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- E. Information and Reports. STA shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by Fairfield or the FTA to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, STA shall so certify to Fairfield or the FTA as appropriate, and shall set forth what efforts it has made to obtain the information.
- F. Incorporation of Provisions. STA shall include the provisions of these paragraphs (a) through (f) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. STA will take such action with respect to any subcontractor or procurement as Fairfield or the FTA may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, STA may request Fairfield to enter into such litigation to protect the interest of Fairfield, and, in addition, STA may request the United States to enter into such litigation to protect the interests of the United States.

25. Disadvantaged Business Enterprise.

STA agrees to:

- A. Comply with U.S. DOT regulations, "Participation by Disadvantaged Enterprises in Department of Transportation Financial Assistance Programs", 49 CFR Part 26.
- B. Complete and submit to Fairfield a DBE Implementation Agreement with the DOT-213 Standard Agreement. Fairfield shall provide the Implementation Agreement to STA prior to vehicle ordering.
- C. Report twice annually on DBE participation in their contracting opportunities; their award/commitments and actual payments.
- D. Each contract you sign with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

The recipient shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any U.S. DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The recipient's DBE program, as required by 49 CFR Part 26 and as approved by U.S. DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, Fairfield may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C, 3801 et seq.).

- E. Each contract you sign with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

STA, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. STA shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of U.S. DOT-assisted contracts. Failure by STA to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate. 28. Section 504 and Americans with Disabilities Act Program Requirements. STA will comply with 49 C.F.R. Parts 27, 37 and 38, implementing the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Section 794, as amended.

26. Warranty for Application to the Small Urban and Rural Program.

STA accepts the terms and conditions of the "Special Section 13(c) Warranty for Application to the Small Urban and Rural Program," as executed by the Secretary of Labor and the Secretary of Transportation on May 31, 1979, and those terms and conditions are incorporated by reference into this Agreement.

27. Public Lands.

STA agrees to refrain from using in its PROJECT any publicly owned land from a park, recreation area, or wildlife or waterfowl refuge of National, Fairfield, or local significance as determined by the Federal, Fairfield, or local officials having jurisdiction thereof, and also refrain from using in its PROJECT any land from a historic site of National, Fairfield, or local significance unless the Federal Government makes the specific findings as required by 49 U.S.C. § 303.

28. Energy Conservation.

STA agrees to comply with the mandatory energy efficiency standards and policies within the applicable Fairfield energy conservation plans issued in compliance with the Energy Policy and Conservation Act, 42, U.S.C. §§ 6321 et seq.

29. Receipt of Commission.

STA warrants that it has not paid, and also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for these funds obtained as a consequence of this Agreement.

30. Conflict of Interest.

- A. In accordance with 41 U.S.C. § 22, no member of or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefit arising there from.
- B. STA certifies that its employees and the officers of its governing body shall avoid any actual or potential conflicts of interest and that no officer or employee who exercises any functions or responsibilities in connection with this Agreement shall have any personal financial interest or benefit which either directly or indirectly arises from this Agreement.
- C. STA shall establish safeguards to prohibit its employees or its officers from using their positions for a purpose which could result in private gain or which gives the appearance of being motivated for private gain for themselves or others, particularly those with whom they have family, business, or other ties.
- D. STA will not be awarded a contract if the financial interests are held by a current officer or employee of Fairfield. Additionally, a contract will not be awarded to an officer or employee of Fairfield to provide goods and service. Likewise, STA officials and employees shall also avoid actions resulting in or creating an appearance of:
 - 1. Using an official position for private gain;
 - 2. Giving preferential treatment to any particular person;
 - 3. Losing independence or impartiality;
 - 4. Affecting adversely the confidence of the public or local officials in the integrity of the program.
- E. Former Fairfield employees will not be awarded a contract for two (2) years from the date of separation if that employee had any part of the decision making process relevant to the agreement, or for one (1) year from the date of separation if that employee was in a policy making position in the same general subject area as the proposed contract within the 12-month period to his or her separation from Fairfield service.
- F. Neither STA nor any of its employees, suppliers or subcontractors shall enter into any contract, subcontract, or arrangement in connection with the PROJECT or any property included or planned to be included in the PROJECT, in which any

member, officer, or employee of STA or its subcontractor, during the PROJECT term and for one year thereafter, has any direct or indirect conflict of interest. If any such present or former member, officer, or employee involuntarily acquires or had acquired prior to the beginning of the PROJECT term any such interest, and if such interest is immediately disclosed to STA and such disclosure is entered upon the minutes of STA's written report to Fairfield of such interest, Fairfield, may waive the conflict of interest; provided that the officer or employee shall not participate in any action by STA or the locality relating to such contract, subcontract, or arrangement.

- G. STA shall insert in all contracts entered into in connection with the PROJECT or with any property included or planned to be included in any PROJECT, and shall require its contractors to insert in each of their subcontracts, the following provision:

"No member, officer, or employee of STA or of the locality during the PROJECT term or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof."

- H. The provisions of this subsection shall not be applicable to any agreement between STA and its fiscal depositories or to any agreement for utility services, the rates for which are fixed or controlled by a governmental agency.

31. Lobbying.

- A. STA agrees that it will not use Federal assistance funds to support lobbying. In accordance with 31 U.S.C. and U.S. DOT Regulations, "New Restrictions on Lobbying," 49 C.F.R. Part 20, if the STA's PROJECT exceeds \$100,000, FTA will not make any Federal assistance available to the STA until FTA has received STA's certification that STA has not and will not use Federal appropriated funds to pay any person or organization to influence or attempt to influence an officer or employee of any Federal agency, a member of Congress, an officer or employee of congress, or an employee of a member of Congress in connection with the awarding of any Federal grant, cooperative agreement or any other Federal award from which funding for the PROJECT is originally derived, consistent with 31 U.S.C. § 1352, and;
- B. If applicable, if any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with the form instructions.
- C. STA shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and

contracts under grants, loans, and cooperative agreements) which exceed \$100,000 and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of facts upon which reliance was placed when this Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

32. Program Fraud and False or Fraudulent Statements or Related Acts.

- A. STA acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R Part 31, apply to its actions pertaining to this PROJECT. Upon execution of an underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any Statement it has made, it makes, it may make, or causes to be made, pertaining to that underlying contract or the FTA assisted PROJECT for which this contracted work is being performed. In addition to other penalties that may be applicable, STA further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, Statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on STA to the extent the Federal Government deems appropriate.
- B. STA also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, Statement, submission, or certification to the Federal Government under a contract connected with a PROJECT that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on STA, to the extent the Federal Government deems appropriate.
- C. STA agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that these clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

33. Contracts Involving Federal Privacy Act Requirements.

The following requirements apply to STA and its employees that administer any system of records on behalf of the Federal Government under any contract:

- A. STA agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, STA agrees to obtain the express consent of the Federal Government before STA or its employees operate a system of records on behalf of the Federal Government. STA understands that the

requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved and that failure to comply with the terms of the Privacy Act may result in termination of the underlying Agreement.

- B. STA also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

34. Drug-Free Workplace.

STA certifies by signing this Agreement that it will provide a drug-free workplace, and shall establish policy prohibiting activities involving controlled substances in compliance with Government code Section 8355, et seq. STA is required to include the language of this certification in award documents for all sub-awards at all tiers (including subcontracts, contracts under grants, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. To the extent STA, any third-party contractor at any tier, any subrecipient at any tier, or their employees, perform a safety sensitive function under the PROJECT, STA agrees to comply with, and assure the compliance of each affected third-party contractor any tier, each affected subrecipient at any tier, and their employees with 49 U.S.C. Section 5331, and FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug use in Transit Operations," 49 CFR Part 655.

35. Charter Service Operations.

STA agrees to comply with the Charter service operations provisions pursuant to 49 CFR Part 604.4, which provides that recipients and subrecipients seeking Federal assistance under the Federal Transit Laws to acquire or operate any public transportation equipment or facilities shall enter into a "Charter Service Agreement" as set out in paragraph (b) of this section.

- (b) A recipient shall enter into a Charter Service Agreement if it receives Federal funds for equipment or facilities under the Federal Transit Laws. The terms of the Charter Service Agreement are as follows:

"The recipient agrees that it, and each of its subrecipients, and third party contractors at any level who use FTA-funded vehicles, may provide charter service using equipment or facilities acquired with Federal assistance authorized under the Federal Transit Laws only in compliance with the regulations set out in 49 CFR 604, the terms and conditions of which are incorporated herein by reference."

- (c) The Charter Service Agreement is contained in the Certifications and Assurances published annually by FTA for applicants for Federal financial assistance. Once a recipient receives Federal funds, the Certifications and Assurances become part of its Grant Agreement or Cooperative Agreement for Federal financial assistance. STA understands that the requirements of 49 CFR part 604.4 will apply to any charter service provided, the definitions in 49 CFR 604.4 apply to this agreement, and any violation of this agreement may require corrective measures and the imposition of penalties, including debarment from the receipt of further Federal assistance for transportation.

36. School Bus Operations.

Pursuant to 49 U.S.C. § 5323(F) and 49 CFR Part 605, STA agrees that it and all its subcontractors will: (1) engage in school transportation operations in competition with private school transportation operators only to the extent permitted by an exception provided by 49 U.S.C. § 5323(f) and implementing regulations, and (2) comply with requirements of 49 CFR part 605 before providing any school transportation using equipment or facilities acquired with Federal assistance awarded by FTA and authorized by 49 U.S.C. Chapter 53 or Title 23 U.S.C. for transportation projects. STA understands that the requirements of 49 CFR part 605 will apply to any school transportation it provides, that the definitions of 49 CFR part 605 apply to any school transportation agreement, and a violation of this agreement may require corrective measures and the imposition of penalties, including debarment from the receipt of further Federal assistance for transportation.

37. Use of \$1 Coins.

As applicable, and to comply with Section 104 of the Presidential \$1 Coin Act of 2006, 31 U.S.C. § 5312(p), STA must ensure that FTA assisted property that requires the use of coins or currency in public transportation service or supporting service be fully capable of accepting and dispensing \$1 coins.

38. Protection of Animals.

STA must ensure that all third-party contractors providing services involving the use of animals must comply with the Animal Welfare Act, 7 U.S.C. Sections 2131 et seq. and Department of Agriculture regulations, "Animal Welfare," 9 CFR Subchapter A, Parts 1,2,3, and 4.

39. Additional Termination Clauses.

- A. Termination for Convenience. When it is in Fairfield's best interest, Fairfield reserves the right to terminate this Agreement, in whole or in part, at any time by providing a ten (10) day written notice to STA. STA shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. STA shall promptly submit its termination claim to Fairfield. If STA has any property in its possession belonging to Fairfield, STA will account for the same, and dispose of it in the manner Fairfield directs.
- B. Termination for Default. Fairfield may terminate this Agreement upon a finding that STA has not made satisfactory progress toward procuring the PROJECT equipment, services, salary and wages, as appropriate, within twelve (12) months of execution of this Agreement, has not billed for operating assistance funds within twelve (12) months of execution of this Agreement, or that STA is otherwise not complying with the terms of this Agreement. Termination shall be by written notice specifying the reason for termination and giving STA thirty (30) days to correct the default. Fairfield shall be the sole judge as to whether STA's corrective measures are adequate. If STA fails to remedy to Fairfield's satisfaction the breach or default or any of the terms, covenants, or conditions of this Agreement the STA TE shall have the right to terminate the Agreement without any further obligation to STA.

Any such termination for default shall not in any way operate to preclude Fairfield from also pursuing all available remedies against STA. If STA has any property in its position belonging to Fairfield, Fairfield reserves the right to seize vehicles or equipment procured under this agreement or otherwise instructs STA to dispose of or return the equipment as set forth in Section 48 of this agreement.

- C. Period of Performance Extension. If it is later determined by Fairfield that STA had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of STA, Fairfield, after setting up a new delivery of performance schedule, may allow STA to continue work, or treat the termination as a termination for convenience.
- D. Mutual Termination. The PROJECT may also be terminated if Fairfield and STA agree that its continuation would not produce beneficial results commensurate with the further expenditure of funds or if there are inadequate funds to operate the PROJECT equipment or otherwise complete the PROJECT.

40. Disputes.

Fairfield and STA shall deal in good faith and attempt to resolve potential disputes informally. If the dispute persists, STA shall submit to the authorized Fairfield Representative [who shall be designated by Fairfield's Director of Public Works] for this Agreement a written demand for a decision regarding the disposition of any dispute arising under this Agreement. The Fairfield Representative shall make a written decision regarding the dispute and will provide it to STA. STA shall have an opportunity to challenge the Fairfield Representative's determination but must make that challenge in writing within ten (10) working days to Fairfield's Director of Public Works or his/her designee. If STA challenge is not made within the ten (10) day period, the decision of the Fairfield Representative shall become the final decision of Fairfield. Fairfield and STA shall submit written, factual information and supporting data in support of their respective positions. The decision of Fairfield's Director of Public Works or his/her designee shall be final, conclusive and binding regarding the dispute, unless STA commences an action in court of competent jurisdiction to contest the decision in accordance with Division 3.6 of the California Government Code.

41. Procurement.

For all procurements of property, supplies, equipment or services under an FTA assisted grant, the Contractor shall provide full and open competition and comply with the procurement requirements set forth in 49 U.S.C. § 5325(a), applicable third-party procurement requirements of 49 U.S.C. Chapter 53 and other procurement requirements of Federal laws in effect now or as amended to the extent applicable. STA shall prepare a bid package, including equipment and material specifications or a scope of work. In accordance with applicable U.S. DOT third-party procurement regulations at 49 C.F.R. § 18.36 and the provisions of FTA Circular 4220.1 F, "Third-Party Contracting Guidance," November 1, 2008, and any later revision thereto, STA agrees that it may not use FTA assistance to support its procurements unless there is satisfactory compliance with Federal laws and regulations including but not limited to the following:

- A. To Fairfield clearly that the final contract award to any bidder requires prior written approval by Fairfield and that bids are consistent with the PROJECT equipment description identified in Exhibit A, Scope of Work.
- B. To comply with applicable Federal laws and regulations including, but not limited to, Federal transit laws at 49 U.S.C. Chapter 53, FTA regulations, and other Federal laws and regulations that contain requirements applicable to FTA recipients and their FTA assisted procurements. Also, to include all required Federal procurement provisions in each subcontract financed in whole or in part with Federal assistance provided by FTA.
- C. For all contracts and subcontracts financed with Federal assistance, to comply with cargo preference requirements of 46 U.S.C. § 1241 and 46 CFR Part 381 when contracts involve equipment, materials, or commodities which may be transported by ocean vessels.
- D. To comply with the requirements of 49 U.S.C. § 5323 (c) and FTA regulations, "Bus Testing", 49 C.F.R. Part 665, and any revision thereto.
- E. To comply with the requirements of 49 U.S.C. § 5323(1) and FTA regulations, "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases," 49 C.F.R. Part 663, and any revision thereto.
- F. To comply with the requirements of 49 U.S.C. § 5325(b) to award a third-party contract using a competitive procurement process.
- G. In accordance with 49 U.S.C. § 5325(e)(1), in the procurement of rolling stock, may not enter into a multi-year contract to purchase additional rolling stock and replacement parts with options exceeding five (5) years after the date of the original contract.
- H. To comply with 49 U.S.C. § 5325(f), agrees that any third-party contract award it makes for rolling stock will be based on initial capital costs, or on performance, standardization, life cycle costs, and other factors, or on a competitive procurement process.
- I. To comply with the requirements of 49 U.S.C. Section 5323(m) and FTA regulations, "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases," 49 CFR Part 663, and any revision thereto.
- J. To award a third-party contract using a competitive procurement process in compliance with the requirements of 49 U.S.C. Section 5325.
- K. To comply with the requirements of 49 U.S.C. Section 5318(e) and FTA regulations, "Bus Testing", 49 CFR Part 665, including the certification that before expending any Federal assistance to acquire the first bus of any new bus model or any bus model with a new major change in configuration or components or before authorizing final acceptance of that bus, that model of bus will have been tested at

the ALTOONA Bus Research and Testing Center. STA must obtain the final testing report and provide a copy of the report to Fairfield.

- L. To require each bidder to certify that it has complied with 49 CFR 26, which requires each transit vehicle manufacturer to establish annual goals for the participation of disadvantaged business enterprise and to submit those goals to FTA for approval.
- M. To comply with 49 U.S.C. Section 53230, FTA's Buy America regulations at 49 CFR Part 661 and any amendments thereto, and any implementing guidance issued by FTA, with respect to each third-party contract.
- N. To meet applicable regulations of 49 CFR Part 663 in the purchase of revenue rolling stock.
- O. In subcontracts exceeding \$100,000, to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. Section 7401 et seq. and Clean Water Act, as amended, 33 U.S.C. Section 1251 et seq. agrees to report and require each third-party contractor or subcontractor at any tier to report any violation of these requirements resulting from any PROJECT implementation activity of a third party contractor, subcontractor, or itself to FTA and the appropriate U.S. EPA Regional Office.
- P. To comply with U.S. Environmental Protection Agency (U.S. EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 C.F.R. Part 247, which implements section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962. Accordingly, STA agrees to provide a competitive preference for products and services that conserve natural resources, protect the environment, and are energy efficient, except to the extent that the Federal Government determines otherwise in writing.
- Q. To comply with mandatory standards and policies relating to energy efficiency, which are contained in Fairfield energy conservation plan issued in compliance with the Energy Policy and Conservation Act.
- R. To the extent applicable, agrees to conform to the National Intelligent Transportation Systems (ITS) Architecture and Standards as required by SAFETEA-LU § 5307(c), 23 U.S.C. § 512 note, and follow the provisions of FTA Notice, "FTA National ITS Architecture Policy on Transit Projects," 66 Fed. Reg. 1455 et seq., January 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing.
- S. In accordance with 40 CFR Part 85, "Control of Air Pollution from Mobile Sources," 40 CFR Part 86, "Control of Air Pollution from New and In-Use Motor Vehicles and New and In-Use Motor Vehicle Engines," and 40 CFR Part 600, "Fuel Economy of Motor Vehicles, STA must include provisions in all third-party contract for procurement of rolling stock to ensure compliance with applicable Federal air pollution control and fuel economy regulations.

- T. STA shall refer to FTA "Best Practices Procurement Manual" for additional procurement guidance on procurement processes and any omissions applicable to the PROJECT. STA'S failure to comply with all mandates shall constitute a material breach of this Agreement.
- U. STA must comply with applicable cost principles circulars, current in Title 2 of the Code of Federal Regulations, in determining whether project costs are allowable or unallowable. Title 2 CFR Part 225, previously OMB Circular A-87, establishes principles and standards for determining costs applicable to grants, contracts, and other agreements with Fairfield and local governments and federally recognized Indian tribal governments. 2 CFR Part 230 previously OMB Circular A-122, establishes cost principles for nonprofits. Where applicable, STA must comply with cost principles of FAR 31.2.
- V. STA must have written protest procedures covering the pre-bid/pre-proposal, post proposal, and post award processes, and shall in all instances disclose to all bidders STA's protest and Fairfield's appeal procedures. All STA protest decisions must be dated and in writing. A protester must exhaust all administrative remedies with STA before pursuing an appeal with Fairfield. Reviews of protests by Fairfield will be limited to:
 - 1. STA's failure to have or follow its own protest procedures, or its failure to review a complaint or protest
 - 2. Violations of the Federal or State law or regulation.

An appeal to Fairfield must be received or postmarked ten (10) calendar days (includes mailing time) from the date of the protest decision.

42. Bid Proposal and Contract Award.

All bid solicitation documents, proposed vendor selection and request for noncompetitive bid must be reviewed and approved by Fairfield prior to the award of the contract. No award shall be made without the written approval from Fairfield. STA (or procurement agent acting on its behalf) shall prepare the bid documents, solicit and receive competitive bids or proposals, shall evaluate the bids or proposals received, and shall select the lowest price compliant bid for award.

- A. STA (or procurement agency acting on its behalf) shall forward to Fairfield, at least thirty (30) days prior to the release of the bid solicitation, a copy of the bid solicitation document proposed contract, and bidders list.
- B. Prior to contract award, STA (or procurement agency acting on its behalf) shall forward to Fairfield a list of all bids, proposals, or price quotations received, a copy of the selected bid or proposal, copy of the bids or proposals of all those whose prices are lower than the selected vendor's, an explanation of the basis for selecting the selected vendor and for rejecting lower bids (if any). In the case of a single bid, sole source, or negotiated price contract, this shall include a Statement by STA that

the price is fair and reasonable and the basis for that determination (FTA Circular C 4220.1 F "Third-party Contracting Guidance").

- C. All third-party contracts, subcontracts and contract modifications funded under the PROJECT shall include essential elements including, but not restricted to, the following: parties, price or rate of compensation, scope of work, contract time line, contract termination and other legal considerations.
- D. STA to perform a cost or price analysis in connection with every procurement action funded under the PROJECT, including contract modifications. Prior to receiving bids or proposals STA must make independent cost estimates to determine price reasonableness.

43. FTA Regulations, Policies, Procedures and Directives.

STA shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Agreement (Form FTA MA (21) dated October, 2014 between Fairfield and FTA, as they may be amended or promulgated from time to time during the term of this Agreement. STA's failure to so comply shall constitute a material breach of this Agreement. In the event any portion, term, condition or provision of this Agreement should be deemed illegal or in conflict with the laws of Fairfield of California or with Federal law or otherwise be unenforceable, the remaining portion, terms, conditions or provisions shall not be affected thereby.

44. Amendments to Federal, State, and Local Laws. Regulations and Directives.

The terms of the most recent amendment to any Federal, State, or local laws, regulations, FTA directives, and amendments to the grant or cooperative contract that may be subsequently adopted, are applicable to the PROJECT to the maximum extent feasible, unless FTA provides otherwise in writing.

45. Disposition of Equipment or Property.

The disposition of all PROJECT equipment or property shall be made in accordance with the requirements of 49 C.F.R. Part 19, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations" and FTA C 9070.1F (Section 5310) and 49 U.S.C. § 5310. Whenever any PROJECT equipment is withdrawn from the PROJECT for any reason, STA shall immediately notify Fairfield. Should the PROJECT be terminated, all property procured under this agreement becomes property of Fairfield and may be transferred to other eligible contractors at the sole discretion of Fairfield. At the option of Fairfield, STA shall do one of the following:

- A. Written Notice of Termination. Fairfield may terminate this contract upon finding that STA is not operating the PROJECT equipment in accordance with the PROJECT description in Exhibit A, Scope of Work, or that STA is otherwise not complying with the terms of this contract. Termination shall be by written notice specifying the reason for termination and giving STA thirty (30) days to correct the default. Fairfield shall be the sole judge as to whether STA's corrective measures

are adequate. If STA fails to remedy to Fairfield's satisfaction the breach or default or any of the terms, covenants, or conditions of this contract Fairfield shall have the right to terminate the contract without any further obligation to STA. Any such termination for default shall not in any way operate to preclude Fairfield from also pursuing all available remedies against STA and its sureties for said breach or default. Once a contract has been terminated within the provisions of this section, Fairfield reserves the right to seize vehicles or equipment procured under this agreement.

- B. Remit to Fairfield the proportional amount of current market value that exceeds \$5,000 per unit at the time of disposition, if any, of PROJECT equipment which shall be based on the percentage of the FTA grant funds paid by STA under this agreement. Fair market value shall be deemed to be the value of the PROJECT equipment as determined by a competent appraisal at the time the equipment is withdrawn from use; and
- C. Return the equipment to Fairfield in the same condition as when received by STA, except for reasonable wear and tear resulting from its use. The parties shall thereupon determine the amount of compensation, if any, to be paid by STA to Fairfield in order to avoid any Fairfield liability to FT A or to others.

46. Property Maintenance and Inspection.

While the PROJECT is in the possession or control of STA, STA shall operate or maintain the PROJECT in accordance with detailed maintenance and inspection schedules provided by the manufacturer, keeping a written log or record of all repairs and maintenance. Fairfield and the FTA shall have the right to conduct periodic inspections for the purpose of confirming the existence, condition, and proper maintenance of the PROJECT. No alterations may be made to the PROJECT in its as-received condition without first receiving written approval from Fairfield.

47. Insurance.

- A. While the PROJECT equipment is in the possession or control of STA, STA shall maintain adequate insurance protection against liability for damages for personal bodily injuries (including death), property damage, and vehicle damage as conditioned in this section.
- B. The minimum limits of liability, shown below in parts J and K, may be increased by Fairfield at any time upon thirty (30) days notice to STA.
- C. STA shall place Vehicle Physical Damage, including collision and comprehensive (fire, theft, etc.) insurance for amounts equal to the actual cash value of each vehicle and any other equipment that is part of the PROJECT equipment, with deductibles acceptable to Fairfield. This insurance shall include a provision designating Fairfield of California, Department of Transportation as the Loss Payee for all purposes of adjusting, settling, or paying claims for damage to the insured vehicle(s).

- D. Fairfield, its officers, employees, and agents shall be named as additional insured.
- E. Fairfield is designated as the Loss Payee for claims of damage to the insured vehicle(s).
- F. Fairfield will not be responsible for any premiums or assessments on the policy.
- G. STA, and/or third-party subcontractor, shall furnish to Fairfield, before delivery of the PROJECT vehicle(s) to STA, a certificate of insurance issued by a company licensed to write such insurance in California.
- H. Prior to the annual insurance policy expiration date, STA shall furnish to Fairfield a new certificate of insurance or other written evidence of insurance satisfactory to Fairfield. At any time that such evidence of insurance has not been provided, Fairfield shall have the right immediately to take possession of the PROJECT equipment and to enter the property of STA for this purpose.
- I. STA shall provide Fairfield at least thirty (30) days notice of cancellation or material change of the vehicle insurance policy.
- J. Public Agency or For-Profit Contractor. The following terms apply to all Contractors who are defined as a Public Agency or For-Profit entity, regardless if they are providing the service as the prime Contractor or subcontractor:
 - 1. Property Damage: STA shall place property damage, whether the property of one or more claimants, in an amount not less than one million five hundred thousand dollars (\$1,500,000) per occurrence (combined single limit) for property damage liability combined in respect to vehicles with seating capacity of fifteen (15) or less, or five million dollars (\$5,000,000) per occurrence for property damage liability combined in respect to vehicles with seating capacity of sixteen (16) or more.
 - 2. Bodily Injury: STA shall place bodily injury in an amount not less than one million five hundred thousand dollars (\$1,500,000) per occurrence (combined single limit) in respect to vehicles with seating capacity of fifteen (15) or less, or five million dollars (\$5,000,000) per occurrence for bodily injury in respect to vehicles with seating capacity of sixteen (16) or more.
 - 3. Vehicle Physical Damage: STA shall place Vehicle Physical Damage, including collision and comprehensive (fire, theft, etc.) insurance for amounts equal to the actual cash value of each vehicle and any other equipment that is part of the PROJECT equipment, with deductibles acceptable to Fairfield. This insurance shall include a provision designating Fairfield as the Loss Payee for all purposes of adjusting, settling, or paying claims for damage to the insured vehicle(s).

K. Non-Profit Agencies: The following terms apply to all Contractors who are defined as a non-profit agency, regardless if they are providing the service as the prime Contractor or subcontractor:

1. Property Damage: STA shall place property damage, whether the property of one or more claimants, in an amount not less than one million dollars (\$1,000,000) per occurrence (combined single limit) for property damage liability combined in respect to vehicles with seating capacity of fifteen (15) or less, or one million five hundred thousand dollars (\$1,500,000) per occurrence for property damage liability combined in respect to vehicles with seating capacity of sixteen (16) or more.
2. Bodily Injury: STA shall place bodily injury in an amount not less than one million dollars (\$1,000,000) per occurrence (combined single limit) in respect to vehicles with seating capacity of fifteen (15) or less, or one million five hundred thousand dollars (\$1,500,000) per occurrence for bodily injury in respect to vehicles with seating capacity of sixteen (16) or more.
3. Vehicle Physical Damage: STA shall place Vehicle Physical Damage, including collision and comprehensive (fire, theft, etc.) insurance for amounts equal to the actual cash value of each vehicle and any other equipment that is part of the PROJECT equipment, with deductibles acceptable to Fairfield. This insurance shall include a provision designating Fairfield as the Loss Payee for all purposes of adjusting, settling, or paying claims for damage to the insured vehicle(s).

48. Potential Subcontractors

- A. No Relationship Between Fairfield and Third-Party Contractor. Nothing contained in this Agreement or otherwise, shall create any contractual relation, obligation or liability between Fairfield and any third-party contractors, and no third-party agreement shall relieve STA of his responsibilities and obligations hereunder. STA agrees to be as fully responsible to Fairfield for the acts and omissions of its third-party contractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by STA. STA'S obligation to pay its third-party contractors is an independent obligation from Fairfield's obligation to make payments to STA. As a result, Fairfield shall have no obligation to pay or to enforce the payment of any moneys to any third-party contractor.
- B. Third-Party Contracts and Subagreements Affected. To the extent applicable, Federal requirements extend to third-party contractors and their contracts at every tier, and to the subcontractors of third-party contractors and their subagreements at every tier. Accordingly, STA agrees to include, and to require its third-party contractors to include appropriate clauses in each third-party contract and each

subagreement financed in whole or in part with financial assistance provided by FTA.

- C. No Federal Government Obligations to Third Parties. STA agrees that, absent of the Federal Government's express written consent, the Federal Government shall not be subject to any obligations or liabilities to any contractor, any third-party contractor, or any other person not a party to the Grant Agreement in connection with the performance of the PROJECT. Notwithstanding any concurrence provided by the Federal Government in or approval of any solicitation, or third-party agreement, the Federal Government continues to have no obligation or liabilities to any party, including STA or third-party contractor.
- D. Obligations on Behalf of Fairfield. STA shall have no authority to contract for or on behalf of, or incur obligations on behalf of Fairfield.
- E. Fairfield Approval of All Third-Party Contracts. Fairfield shall approve in writing all proposed third-party contract agreements, Memorandums of Understanding (MOU), or similar documents relating to the performance of the Agreement prior to implementation. STA agrees that it will not enter into any third-party contracts unless the same are approved in writing by Fairfield. Any proposed amendments to such third-party contracts must be approved by Fairfield prior to implementation.

49. Narrowband Migration Deadline.

STA must comply with the Federal Communications Commission Public Notice DA09-2589 deadline for private land mobile radio services in the 150-174 MHz and 421-512 MHz bands which will migrate to narrowband (12.5 kHz or narrower) technology effective January 1, 2013.

50. Indemnification.

Neither Fairfield nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by STA and/or its agents under or in connection with any work, authority or jurisdiction conferred upon STA under this Agreement. It is understood and agreed that STA and/or its agents shall fully defend, indemnify and save harmless Fairfield and all its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortuous, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by STA and/or its agents under this Agreement., employees, representatives, and agents.

Solano Transportation Authority
One Harbor Center
Suite 130
Suisun City, CA 94585
Attn: Daryl Halls, Executive Director

City of Fairfield
1000 Webster Street
Fairfield, CA 94533
Attn: David White, City Manager

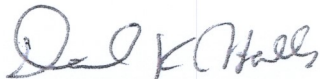
Any notice or demand which may or must be given or made by either Party, under the terms of this Agreement or any statute or regulation, shall be in writing; and shall be deemed received on: (a) the day of delivery if delivered by hand (including overnight courier service) during receiving Party's regular business hours or by facsimile before or during receiving Party's regular business hours; or (b) on the second business day following deposit in the United States mail, postage prepaid, to the addresses set forth above, or to such other addresses as the Parties may, from time to time, designate in writing pursuant to the provisions of this Article, provided the sender obtains and retains records of such postings.

6. This Agreement constitutes the entire Agreement between the parties relating to the Project and supersedes any previous agreement or understanding.

The parties have executed this Agreement on the day and year first written above.

SOLANO TRANSPORTATION AUTHORITY

CITY OF FAIRFIELD

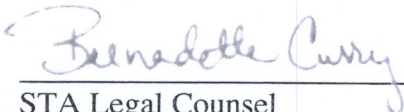


By: Daryl K. Halls, Executive Director

Approved as to Form

By: David White, City Manager

Approved as to Form


STA Legal Counsel

City Attorney